

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PHARO GAIA FUND, LTD., PHARO
MACRO FUND, LTD., and PHARO
TRADING FUND, LTD.,

Plaintiffs,

v.

THE BOLIVARIAN REPUBLIC OF
VENEZUELA,

Defendant.

Case No. 20-cv-8497 (AT)

**DECLARATION OF MATTHEW D. MCGILL IN SUPPORT OF PLAINTIFFS'
PROPOSED CERTIFICATE OF DEFAULT**

I, Matthew D. McGill, declare and state as follows:

1. I respectfully submit this Declaration in support of Plaintiffs' proposed certificate of default, attached hereto. I have personal knowledge about the information in this Declaration.
2. I am a partner at the law firm Gibson, Dunn & Crutcher LLP, and I represent Plaintiffs Pharo Gaia Fund, Ltd., Pharo Macro Fund, Ltd., and Pharo Trading Fund, Ltd. in the above-captioned case.
3. The Complaint in this case was filed on October 12, 2020. *See* Dkt. 1.
4. On October 16, 2020, at the request of Plaintiffs, the Clerk of Court issued a Certificate of Mailing noting that two copies each of the summons with attached affidavit of translation, the complaint with attached affidavit of translation, notice of suit with attached affidavit of translation, statements of relatedness with attached affidavit of translation, corporate disclosure statement with attached affidavit of translation, and civil cover sheet with attached affidavit of translation had been dispatched to the U.S. Department of State, Office of Legal Affairs

for service on the Bolivarian Republic of Venezuela pursuant to 28 U.S.C. § 1608(a)(4). *See* Dkt. 12.

5. On March 10, 2021, the U.S. Department of State delivered to Plaintiffs and the Clerk of Court a letter and certified copy of the diplomatic note indicating that the documents had been delivered to the Embassy of the Bolivarian Republic of Venezuela in Washington, DC under cover of U.S. Department of State diplomatic note on February 12, 2021. A true and correct copy of that correspondence is attached hereto.

6. Receipt of this letter and certified copy of the diplomatic note was acknowledged by the Court on March 18, 2021, with the exception that the docket entry incorrectly lists the date of service as February 12, 2020 rather than February 12, 2021.

7. Pursuant to 28 U.S.C. § 1608(c)(1) and (d), a foreign state served pursuant to 28 U.S.C. § 1608(a)(4) “shall serve an answer or other responsive pleading to the complaint within sixty days after service has been made,” which in these circumstances is “the date of transmittal indicated in the certified copy of the diplomatic note.” Here, the date of transmittal indicated in the certified copy of the diplomatic note is February 12, 2021.

8. Accordingly, Defendant the Bolivarian Republic of Venezuela’s answer or other responsive pleading was due 60 days from February 12, 2021, or April 13, 2021.

9. Defendant the Bolivarian Republic of Venezuela is not an infant, in the military, or an incompetent person.

10. Defendant the Bolivarian Republic of Venezuela has failed to plead or otherwise defend the action by the date required under 28 U.S.C. § 1608(d).

11. As set forth above, the pleading to which no response has been made was properly served pursuant to 28 U.S.C. § 1608(a)(4).

12. I declare under penalty of perjury that the foregoing is true and correct.

Executed: April 14, 2021

Washington, DC

/s/ Matthew D. McGill

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